THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19361 OF 2005

Dt:01.09.2005

Between:

Putti Venkata Subhramanyadev and others

.. Petitioners

and

The Superintending Engineer and another

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19361 OF 2005

ORDER:

The petitioners were employed as Lower Division Clerks with the respondents as a measure of implementation of B.P.Ms.No.36, dated 18.05.1997. Some of the candidates, who claim similar regularization, approached this Court by filing a Batch of writ petitions. Complaining that the directions issued in the writ petitions were not implemented, contempt cases were also filed. Through a common Judgment, dated

07.03.2005, this Court directed the respondents herein to conduct a detailed enquiry into the eligibility of the candidates and the genuinity of the certificates produced by them, while considering their cases for regularization. The enquiry directed by this Court was not confined to the petitioners in the Batch of writ petitions, but also covered those cases, which were already considered by the respondents. 08.04.2005 was fixed by this Court itself, as the date for appearance of all the candidates together with their certificates. It was in this context, that the petitioners were also issued notices to appear before the respondents and prove the genuineness of their service certificates.

The petitioners attended the enquiry on 08.04.2005 before the first respondent. On the basis of the verification, the first respondent issued proceedings, dated 20.08.2005, pointing out that the certificates produced by the petitioners are not genuine and not supported. It was also observed that the Contractor, who is said to have engaged them, did not certify that the petitioners were engaged by him at the relevant point of time. On the basis of these findings, the first respondent issued a show cause notice dated 20.08.2005 requiring the petitioners to explain, within ten days, as to why the penalty of termination of service be not inflicted upon them. The petitioners challenge the show cause notice.

Heard the learned counsel for the petitioners and the learned standing counsel appearing on behalf of the respondents.

On behalf of the petitioners, submissions are made touching on the facts as well as certain procedural aspects. It is urged that the penalty of termination of service can be imposed only after conducting a departmental enquiry and not otherwise. Reliance is placed upon the Judgment of this Court in ***Ch.APPALA REDDY v EASTERN POWER DISTRIBUTION COMPANY OF A.P. LTD. VISAKHAPATNAM.***

Though an attempt is made to convince this Court as to the genuinity to the claim of the petitioners, it is neither permissible nor necessary to deal with the same at this stage. As on today, the petitioners are full members of the service with the respondents. Though it is plausible to argue that the present enquiry is in relation to the very entitlement of the petitioners to be regularized, the fact remains that the proposed penalty can be imposed only after conducting a departmental enquiry. This, in turn, has to be preceded by a charge-sheet. The outcome of the enquiry

conducted on 08.04.2005, may, at the most, constitute the basis for initiation of proceedings.

For the foregoing reasons, the writ petition is disposed of directing that the memo dated 20.08.2005 shall be treated as a charge-sheet and depending on the nature of the explanation that the petitioners may submit, the respondents shall conduct a departmental enquiry, if they intend to inflict the punishment of removal from service. This procedure shall be completed, within a period of three months from the date of receipt of a copy of this Order.

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01.09.2005

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